LIBRARY
SUPREME COURT, U. S.

FILED
APR 21 1969
JOHN F. DAVIS, CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

October Term, 1968

No. 940

PHILIP J. KENNEY, Petitioner,

v.

AMERICAN CAN COMPANY, a corporation
Respondents.

ON APPEAL FROM THE
UNITED STATES CIRCUIT COURT OF APPEALS
FOR THE NINTH CIRCUIT

PETITION FOR REHEARING

Appellant presents its petition for a rehearing of the above entitled cause, and, in support thereof, respectfully shows:

GROUNDS FOR REHEARING

Petitioner contends the judgment affirmed against him sanctioned the departure of the lower court from acceptable judicial procedure and that this empowers this court to exercise its power of supervision.

The departure took place in the form of a "disparity" that arose between the parties when the court by certain of its acts and accompanying statement denied the plaintiff of equal treatment.

During the August 16, 1967 proceeding prior to signing of the judgment, the court became aware that part of plaintiff's evidence went "unreviewed" at the trial. The court acknowledged that this may have been a result of such short notice that the trial was going to be held; thereby did admit (in an apparent attempt to restore parity) this same type of evidence as additional, so plaintiff could make his record.

Petitioner contends that any attempt the court may have made to restore parity was lost, when after it stated to defendent "You can have an exception", then added "It's not going to make any difference to the outcome of the case". This last statement, in the petitioner's opinion was unnecessary and in view of the fact that no exception was taken or attempted to be taken, was discrimitory and indicitive of special treatment.

This is not an attempt to criticize the court because the intent is not questioned, but what judicial benefit was there? Petitioner made his record but, consequently was so depressed that the evidence in question was never argued especially in relationship to the formal agreement, thus the need for a review of his case.

CONCLUSION

For the foregoing reasons it is respectfully urged that this petition for a rehearing be granted, and that, upon further consideration, the judgment of the Court of Appeals for the Ninth Circuit be reversed.

Philip J. Kenney

Appellant pro per
12405 S.E. Schiller
Portland, Oregon 97236

CERTIFICATE

I, Philip J. Kenney, the above-named appellant, do hereby certify that the foregoing petition for rehearing is presented in good faith and not for delay.

Philip J. Kenney

Appellant pro per
12405 S.E. Schiller
Portland, Oregon 97236